

Appl. No. : 09/314,251
Filed : 05/18/99

Claim Rejections - 35 U.S.C. § 103(a)

The PTO has rejected claims 1-7 under 35 U.S.C. § 103(a) as being unpatentable over Hanagan (US 5,520,787) in view of Diebold (US 5,437,999). Claim 8 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Hanagan (US 5,520,787) in view of Diebold (US 5,437,999), and further in view of Gunasingham (US 5,312,590).

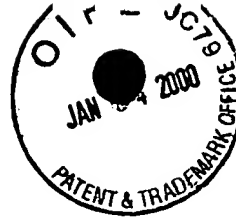
To articulate a *prima facie* case of obviousness, the PTO must, *inter alia*, cite prior art that teaches or suggests all the claimed limitations. *In re Royka*, 490 F.2d 981 (C.C.P.A. 1974). In the present case, the cited art, alone or in combination, fails to teach or suggest all of the claimed limitations. One of the elements of pending amended Claim 1, the sole independent claim, is “a notch in at least one of the lateral edges, wherein the notch is in fluid communication with the cell and allows entry of the liquid sample into the cell.”

Diebold is incorrectly cited by the PTO as disclosing such a notch. The notch in Diebold, as shown in Figures 5 and 6, is formed by the gap between the two electrode contact pads extending out from one end of electrochemical sensor. The Diebold notch is not, however, in fluid communication with the electrochemical cell, and therefore does not allow entry of liquid sample into the cell, as is required by amended Claim 1. Neither Hanagan nor Gunasingham teaches a notch in fluid communication with an electrochemical sensor, nor do any of the references suggest such a notch. Therefore, a *prima facie* case of obviousness has not been made against Claim 1 and dependent claims 2-8. Accordingly, Applicants respectfully request withdrawal of the pending rejections.

Notice of Informal Application (Attachment to Office Action)

The PTO has issued a notice of Informal Application requiring a new oath or declaration because of the claim for priority, i.e., “Applicant claims priority under 35 USC § 119(a)-(d) to PCT/AU96/00723, however from 08/852,804 it appears priority should be based on PCT/AU96/007[2]4.” The priority as claimed by the Applicants was intended. To clarify, the application is a continuation of two copending applications, 09/068,828 and 08/852,804. The first application is 09/068,828, which claims priority to PCT/AU96/0723. The second application is 08/852,804, (issued as US 5,942,102) which claims priority to PCT/AU96/00724. Copies of the declarations for both the 09/068,828 and 08/852,804 applications were submitted with this continuing application. If there are any additional questions concerning the claim to priority, the PTO is invited to contact the undersigned attorney.

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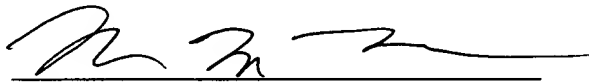
CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance. Nevertheless, the Examiner is invited to contact the undersigned at the telephone number appearing below to discuss any remaining issues that may exist.

Respectfully submitted,

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Dated: 12/28/99

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